

Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 MADRID 3243

E.O. 11652: GDS
TAGS: PFOR, PINT, SHUM, SP
SUBJECT: HUMAN RIGHTS IN SPAIN

REF: STATE 88269

1. USG DURING LAST SEVERAL YEARS HAS CONDUCTED A CONTINU-
ING PROGRAM WHICH HAS HAD AMONG ITS EFFECTS THAT OF PRO-
MOTING HUMAN RIGHTS IN SPAIN. MAJOR ASPECTS OF THAT PROGRAM
FALL INTO FOLLOWING CATEGORIES:

A. BY USE OF LEADER GRANTS, USG HAS GIVEN ENCOURAGE-
MENT TO DEMOCRATIC OPPOSITIONISTS, OUTSPOKEN JOURNALISTS,
ADVOCATES OF FREE TRADE UNIONISM FOR SPAIN, AND LIBERAL
ACTIVISTS AMONG CATHOLIC CLERGY, FOUR SECTORS WHICH CON-
STITUTE VANGUARD OF HUMAN RIGHTS LOBBY IN SPAIN;

B. FREQUENT CONTACTS BY US MISSION OFFICIALS AND
BY OCCASIONAL HIGH LEVEL US VISITORS TO SPAIN WITH LEADERS
OF DEMOCRATIC OPPOSITION AND WITH REFORMERS WITHIN THE
SYSTEM. THE MISSION HAS ALSO GIVEN THEM PUBLIC RECOG-
NITION AND ACCEPTANCE TO THE EXTENT OF INCLUDING THEM IN
EMBASSY SOCIAL FUNCTIONS OR INVITING THEM TO SPEAK UNDER
SPONSORSHIP OF THE USIS CULTURAL CENTER;
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C. USIS AND THE LABOR ATTACHE HAVE CONDUCTED INFORMA-
TION PROGRAMS TO PUBLICIZE THE CONCEPT OF FREE TRADE
UNIONISM AS PRACTICED IN THE UNITED STATES.

D. IN NEGOTIATING JURISDICTIONAL PROVISIONS OF DEFENSE AGREEMENTS, US REPRESENTATIVES SINCE 1953 HAVE LAID HEAVY STRESS ON ASSURANCES BY THE SPANISH OF DUE PROCESS, FULL GUARANTEES AND ACCEPTABLE CONDITIONS OF IMPRISONMENT FOR US SERVICEMEN IN SPAIN. THIS AGREEMENT HAS PROVIDED CONTINUING RIGHT FOR US REPRESENTATIVES TO MONITOR ALL TRIALS OF US SERVICEMEN TO ENSURE COMPLIANCE AND TO AGREE ON ACCEPTABLE PLACES OF CONFINEMENT TO ENSURE MINIMUM STANDARDS. WHEN THERE IS EVIDENCE OF NON-COMPLIANCE, THE MISSION HAS MADE IMMEDIATE FOLLOW-UP, TAKING NECESSARY ACTION WITH GOS TO REACH COMPLIANCE.

E. US CONSULAR OFFICIALS HAVE STAYED IN CLOSE TOUCH WITH US CIVILIAN PRISONERS AND HAVE MONITORED CAREFULLY THE ENTIRE SPANISH PROCESS OF ARREST, TRIAL AND IMPRISONMENT. WHERE FUNDAMENTAL RIGHTS APPEAR TO HAVE BEEN CLEARLY VIOLATED, WE HAVE RAISED THE ISSUE AT APPROPRIATE LEVELS OF GOS. HOWEVER, WE RECOGNIZE THAT US-SPANISH CONSULAR CONVENTION AND VIENNA CONVENTION, WHICH APPLY TO CIVILIAN OFFENDERS, DO NOT PROVIDE SAME DOCUMENTARY BASIS AS MILITARY JURISDICTION ACCORDS FOR INVESTIGATING AND QUESTIONING POSSIBLE AREAS OF ABUSE. EVEN THOUGH US MILITARY AND CONSULAR OFFICIALS NECESSARILY LIMIT THEIR CONCERN TO US CITIZENS, BECAUSE OF EXTENSIVE US INFLUENCE IN SPAIN THIS CONCERN HAS, WE THINK, SERVED AS ADDITIONAL STIMULUS TO SPANISH TO MAINTAIN HIGHER JURIDICAL AND PENAL STANDARDS IN GENERAL. FINALLY, WE CONSIDER THAT SOME OF PROCEDURAL SAFEGUARDS GIVEN US MILITARY, SUCH AS IMMEDIATE NOTIFICATION OF ARREST AND ACCESS TO COUNSEL AND INTERPRETER ASSISTANCE, ARE OF SUCH IMPORTANCE THAT THEY SHOULD BE EXTENDED TO US CIVILIANS AS WELL, IF NECESSARY THROUGH RENEGOTIATION OF CONSULAR CONVENTION.

2. MISSION HAS RAISED SPECIFIC HUMAN RIGHTS ISSUES INVOLVING SPAIN'S INTERNAL POLICIES ONLY OCCASIONALLY IN RECENT YEARS. WE HAVE BEEN CONVINCED THAT GIVEN SPANISH CONFIDENTIAL

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PRIDE AND STUBBORNESS, FREQUENT US INVOLVEMENT IN SPANISH INTERNAL AFFAIRS MIGHT WELL PRODUCE THE OPPOSITE EFFECT WE HAD INTENDED. FEW COUNTRIES WELCOME A CONSTANT STREAM OF ADVICE OR PROTEST ON THE INTERNAL CONDUCT OF THEIR AFFAIRS.

3. FOLLOWING INITIATIVES WHICH MISSION HAS TAKEN DURING PAST THREE YEARS ARE ILLUSTRATIVE OF OUR APPROACH TO THE PROBLEM:

A. EMBASSY OFFICERS IN 1974 AND 1975 HAVE BROUGHT TO THE ATTENTION OF APPROPRIATE FONMIN OFFICIALS CONGRESSIONAL CONCERN OVER THE STATUS OF HUMAN RIGHTS IN AID RECIPIENT COUNTRIES, SPECIFICALLY CALLING THEIR ATTENTION

TO SECTIONS 32 AND 46 OF THE FOREIGN ASSISTANCE ACT OF 1973. WITHIN PAST SEVERAL WEEKS AMBASSADOR POINTED OUT TO MINISTER OF THE INTERIOR, WHO IS RESPONSIBLE FOR SECURITY AND POLICE FORCES IN SPAIN, EXISTENCE OF CONTINUING CONCERN IN IMPORTANT US CIRCLES AND IN CONGRESS OVER ISSUE OF HUMAN RIGHTS IN SPAIN.

B. EMBASSY OFFICERS IN 1974 AND 1975 MADE INQUIRIES TO SENIOR SPANISH POLICE AND PRISON OFFICIALS ABOUT THE TREATMENT AND CONDITION OF CONFINEMENT OF CERTAIN POLITICAL PRISONERS ALLEGEDLY TORTURED IN CONNECTION WITH INTERROGATION AND IMPRISONMENT.

C. EMBASSY HAS ASSISTED PRIVATE US CITIZENS WHO HAVE COME TO SPAIN AS OBSERVERS AT TRIALS OR ON FACT-FINDING MISSIONS INVOLVING HUMAN RIGHTS QUESTIONS, SUCH AS 1973 "CARABANCHEL TEN" TRIAL AND 1975 APPEALS HEARING. SIMILARLY, WHERE NECESSARY, THE EMBASSY HAS FACILITATED CONTACTS BETWEEN PRIVATE US HUMAN RIGHTS GROUPS AND US LEGISLATORS ON HUMAN RIGHTS FACT-FINDING MISSIONS AND APPROPRIATE SPANISH REPRESENTATIVES. WE HAVE ARRANGED VISITS TO SPANISH PRISONS, WHEN REQUESTED.

4. FOR THE FUTURE WE CONSIDER ALL FOREGOING ACTIVITIES ARE WORTH CONTINUING IN SOME FORM. IN DISCUSSING OPTIONS IN MORE DETAIL, WE WILL USE FORMAT FOR THIS PROVIDED IN

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REFTEL COMMENTING SEPARATELY ON EACH OF OPTIONS DISCUSSED IN PARAGRAPHS A THROUGH G.

A. OFFICIAL USG SUPPORT FOR INSTITUTIONS, GROUPS AND PRACTICES:

WE SHOULD CONTINUE GENERAL PATTERN OF OUR EXISTING LEADER GRANT AND INFORMATION PROGRAMS WHICH TAKE FULLY INTO ACCOUNT HUMAN-RIGHTS ISSUES AND HUMAN-RIGHTS-CONSCIOUS GROUPS, BUT INCREASING EMPHASIS IN CERTAIN AREAS, PARTICULARLY AMONG TRADE UNIONISTS AND LABOR-RELATED GRANTEES. WE SHOULD ENCOURAGE GREATER CONTACT BETWEEN HUMAN-RIGHTS GROUPS IN SPAIN AND THEIR COUNTERPARTS IN THE US, SPECIFICALLY IN CONGRESS. WE WOULD FAVOR JUDICIOUS US SUPPORT FOR SUCH CONTACTS, USING LEADER GRANT FUNDS, OR USING SPECIAL SUBSIDIES TO BONAFAIDE US ORGANIZATIONS THAT MIGHT WISH TO CONDUCT HUMAN RIGHTS PROGRAMS IN US INVOLVING SPANISH PARTICIPANTS. SIMILARLY US CULTURAL CENTERS IN SPAIN SHOULD OFFER WITH REASONABLE FREQUENCY PLATFORMS TO US,

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C O N F I D E N T I A L SECTION 2 OF 2 MADRID 3243

SPANISH AND THIRD COUNTRY SPEAKERS ON THEMES OF HUMAN RIGHTS AND SHOULD SPONSOR PRESENTATIONS BY US SPECIALISTS ON THEORY AND PRACTICE OF FREE TRADE UNIONISM IN THE US. SINCE CONGRESSIONAL INTEREST IS FUNDAMENTAL IN DEVELOPING HUMAN RIGHTS EMPHASIS, WE WOULD FAVOR MAKING A GREATER USE OF EXISTING FORMAL CONGRESSIONAL CONTRACTS WITH SPAIN FOR PROMOTING HUMAN RIGHTS CONSCIOUSNESS. CONTACTS THROUGH IPU HAVE BEEN USEFUL, BUT HAVE TENDED TO BRNG US LEGISLATORS IN TOUCH WITH SPANISH PARLIAMENTARIANS ON MORE AUTHORITARIAN SIDE OF POLITICAL SPECTRUM. WE SHOULD ENCOURAGE GREATER CONGRESSIONAL CONTACTS WITH MORE LIBERAL CORTES MEMBERS, PARTICULARLY THOSE IN FAMILY SECTOR, WHO HOLD THEIR SEATS BY DIRECT POPULAR ELECTION. US MIGHT WELL PROMOTE AND UNDERWRITE DIRECT INVITATION BY APPROPRIATE CONGRESSIONAL GROUP TO DELEGATION OF LIBERAL, FAMILY-SECTOR CORTES MEMBERS FOR THIS PURPOSE.

B. OFFICIAL SUPPORT FROM NON-GOVERNMENTAL US ORGANIZATIONS:

WE SHOULD PROMOTE CONTACTS BETWEEN NON-GOVERNMENTAL US ORGANIZATIONS AND COUNTERPARTS IN SPAIN WHERE SUCH CONTACTS MIGHT ENCOURAGE GREATER RESPECT FOR HUMAN RIGHTS AND POLITICAL LIBERALIZATION. AMONG THEM WOULD BE TRADE UNIONS AND SUCH PROFESSIONAL ASSOCIATIONS AS ATTORNEYS, TEACHERS AND UNCONFIDENTIAL

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VERSITY PROFESSORS, JOURNALISTS, AND CIVIL SERVANTS.

C. INFORMAL EFFORTS THROUGH DIPLOMATIC CHANNELS:

WE HAVE BEGUN DOING THIS, USING JUSTIFICATION PROVIDED BY FOREIGN ASSISTANCE LEGISLATION. SUCH INITIATIVES, SINCE THEY HAVE NOT DEALT WITH SPECIFICS, AT BEST SERVE

ONLY AS REMINDERS TO GOS THAT THIS IS POTENTIAL PROBLEM IN OUR BILATERAL RELATIONSHIP. NOT SURPRISINGLY, GOS BELIEVES ITS OWN LEGAL AND PENAL SYSTEM AND ITS RECORD ON HUMAN RIGHTS ARE ACCEPTABLE AND IS INCLINED TO ATTRIBUTE CRITICISM TO DISTORTED PRESS COVERAGE AND INADEQUATE INFORMATION. SUCH US APPROACHES WOULD BE MORE EFFECTIVE IF TIED TO SPECIFIC INCIDENTS OR POLICIES WITH ENCOURAGEMENT OF GOS RESPONSES. SPAIN'S MOUNTING INTEREST IN CLOSER ASSOCIATION WITH NATO AND OTHER EUROPEAN INSTITUTIONS PROVIDES US AT THIS TIME ADDITIONAL LEVERAGE IN THIS AREA. FOLLOWING ARE SPECIFIC ISSUES ON WHICH WE MIGHT MAKE INFORMAL DIPLOMATIC APPROACHES TO MAKE CLEAR OUR CONCERN REGARDING SPANISH PRACTICES WITH RESPECT TO: 1) CENSORSHIP OR SEQUESTRATION OF REPUTABLE US PUBLICATIONS ENTERING SPAIN OR INDIVIDUAL RESTRICTIONS ON US NEWSMEN IN SPAIN. FOR SAKE OF CONSISTENCY, WE SHOULD AT SAME TIME AVOID DEMARCHES WHICH APPEAR TO HOLD GOS RESPONSIBLE FOR WHAT APPEARS IN SPANISH PRESS WRITTEN BY NON-OFFICIAL WRITERS OR GIVEN IMPRESSION US WOULD FAVOR GOVERNMENT ACTION AGAINST OFFENDING PUBLICATION: 2) ANY GOVERNMENT PRESSURES OR RESTRICTIONS ON FREEDOM OF EXPRESSION AND ASSOCIATION IN CASES OF US-LINKED ORGANIZATION SUCH AS CULTURAL CENTER AND AMERICAN PRIVATE ORGANIZATION. WE SHOULD ALSO INFORMALLY PRESS FOR MORE LIBERAL APPLICATION OF FREEDOM OF ASSOCIATION, WHICH GUARANTEED IN SPANISH FUERO, POSSIBLY USING AS CASE IN POINT SPANISH DENIAL OF RECOGNITION TO REPUTABLE INTERNATIONAL PRIVATE ORGANIZATIONS SUCH AS ROTARY INTERNATIONAL AND B'NAI BRITH.

D. & E. FORMAL DIPLOMATIC INQUIRIES AND MULTILATERAL EFFORTS:

WE HAVE MADE OCCASIONAL INFORMAL INQUIRIES OR EXPRESSIONS OF CONCERN. EXCEPT IN CASES OF AMERICAN VICTIMS, WE HAVE CONFIDENTIAL

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RARELY MADE FORMAL DIPLOMATIC INQUIRY OR PUBLIC STATEMENTS ON INTERNAL SPANISH EVENTS. FOR TIME BEING, WE CONTINUE TO FAVOR INFORMAL APPROACH BECAUSE OF ITS LOWER POTENTIAL FOR DAMAGING BILATERAL RELATIONSHIP AND BECAUSE INNATE SPANISH PRIDE OFTEN TENDS TO STIFFEN WHEN CONFRONTED WITH WHAT APPEARS TO BE EXTERNAL PUBLIC CRITICISM. AS STRICTLY US COURSE OF ACTION, WE WOULD PREFER TO RESERVE THIS OPTION ONLY FOR MOST CONTROVERSIAL VIOLATIONS OF HUMAN RIGHTS. HOWEVER, IN MORE SERIOUS CASES WE BELIEVE US COULD IN SELECTED INSTANCES PROFITABLY ASSOCIATE ITSELF WITH JOINT OR PARALLEL FORMAL INQUIRIES OR EXPRESSIONS OF CONCERN BY OTHER MAJOR WESTERN STATES WHICH IN GOOD STANDING IN SPAIN AND WHICH ARE CONSIDERED RELATIVELY FREE OF BIAS ON SPANISH INTERNAL ISSUES. SUCH STATES WOULD BE PRIMARILY FRG AND FRANCE, AND TO LESSER EXTENT UK AND CANADA.

F. US INITIATIVES IN INTERNATIONAL BODIES:

WHILE WE LACK FULL INFORMATION ON HOW ALL SUCH INTERNATIONAL BODIES WORK AND ON FULL RANGE OF POSSIBLE INITIATIVES, WE ARE INCLINED TO BELIEVE THAT THIS APPROACH SHOULD BE USED ONLY RARELY. SPANISH WOULD STIFFEN AT WHAT WOULD SEEM TO BE FURTHER INTERFERENCE BY MOST SUCH INTERNATIONAL ORGANIZATIONS, MANY OF WHICH THEY REGARD AS POLITICALLY BIASED, E.G., ILO AND AMNESTY INTERNATIONAL. ICRC HAS SOME CREDIBILITY HERE AND DURING PERIOD OF ADVERSE PUBLICITY OVER ALLEGED MISTREATMENT OF POLITICAL PRISONERS, SPANISH GOVERNMENT GAVE SERIOUS CONSIDERATION TO INVITING ICRC FACTFINDING GROUP TO EXAMINE PRISONERS. WHILE US SHOULD NOT BY ITSELF TAKE INITIATIVE IN PROPOSING SUCH ACTION, US SHOULD JOIN WITH OTHER RESPONSIBLE MEMBER STATES IN SUPPORTING APPROPRIATELY DEPOLITICIZED MEASURES ON SPAIN. ICJ AND UN HUMAN RIGHTS COMMISSION ALSO HAVE REASONABLE CREDIBILITY HERE.

G. US ACTIONS TO REDUCE RELATIONS:

IN GENERAL WE SEE THIS APPROACH AS OVERLY SEVERE AND INCONSISTENT WITH OTHER BASIC INTERESTS HERE. MOREOVER WE WOULD LAY OURSELVES OPEN TO, AND SHOULD EXPECT, SPANISH RETALIATION IN MANY SUCH CASES. IN FACT ONCE AGAIN SPANISH
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INNATE RESISTANCE TO OUTSIDE PRESSURE WOULD PROBABLY SHOW ITSELF. EXTERNAL SANCTIONS WHEN IMPOSED AT RECOMMENDATION OF UN IN LATE FORTIES AGAINST FRANCO REGIME WERE RESENTED BY MUCH OF POPULATION AND PROVIDED LITTLE INCENTIVE FOR INTERNAL POLITICAL CHANGES. REDUCTION OR ELIMINATION OF SECURITY ASSISTANCE PRESENTS SPECIAL DILEMMA, SINCE SECURITY ASSISTANCE HAS BEEN, AND PROBABLY WILL CONTINUE TO BE PART OF US PAYMENT FOR DEFENSE FACILITIES IN SPAIN. REACTION OF SPANISH TO REDUCTION MIGHT WELL BE CORRESPONDING REDUCTION IN DEFENSE FACILITIES. MOREOVER, REDUCTIONS MIGHT REQUIRE US TO TAKE THE ANOMALOUS POSITION OF ARGUING THAT ALLEGED HUMAN RIGHTS DEFICIENCIES ARE NO BARRIER TO HAVING BASES IN SPAIN, BUT THOSE SAME DEFICIENCIES REQUIRED US TO SUSPEND SECURITY ASSISTANCE DIRECTLY LINKED TO THOSE BASES.

5. IN CONCLUSION, WE BELIEVE THAT GOS HAS MADE CONSIDERABLE PROGRESS ON HUMAN RIGHTS IN PAST EIGHT YEARS AND THERE ARE STRONG INTERNAL FORCES, BOTH WITHIN GOVERNMENT AND IN SOCIETY AS WHOLE, WHICH MAKE FURTHER LIBERALIZATION LIKELY. WE FAVOR ENCOURAGING THESE FORCES THROUGH EXISTING DIPLOMATIC CONTACTS AND PROGRAMS. WHILE WE FAVOR GREATER RELIANCE ON INFORMAL, BEHIND THE SCENES DIPLOMATIC INITIATIVES AND INQUIRIES, BOTH BILATERALLY AND IN CONCERT WITH OTHER WESTERN POWERS IN GOOD STANDING, WE CAUTION AGAINST USE

OF PUBLIC,DIRECT PRESSURES EXCEPT IN MOST EGREGIOUS
CASES, SINCE WE BELIEVE IT COULD HARM OTHER BILATERAL
INTERESTS BUT FAIL TO SOFTEN SPANISH POSITION IN SIGNI-
FICANT WAY. IT IS IMPORTANT, HOWEVER, THAT US SUPPORT OF
HUMAN RIGHTS SHOULD HAVE SUFFICIENT VISIBILITY NOT ONLY
BECAUSE OF ITS POSSIBLE EFFECT ON GOS BUT ALSO THE EFFECT
IT MAY HAVE WITH MORE LIBERAL FORCES THAT WILL PLAY GREATER
ROLE AFTER FRANCO.

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